

BUFFALO FISCAL STABILITY AUTHORITY
Meeting Minutes
November 28, 2018

The following are the minutes from the meeting of the Buffalo Fiscal Stability Authority (the “BFSA” or the “Authority”) held on Wednesday, November 28, 2018, in the first-floor conference room of the Buffalo Market Arcade Complex. The meeting was called to order at 1:00 P.M.

Board Members Present

Interim Vice-Chair Jeanette T. Jurasek
Secretary George K. Arthur
Mayor Byron W. Brown (proxy Estrich)
Director Frederick G. Floss
Director Dottie Gallagher
County Executive Mark C. Poloncarz (proxy Cornell)

Board Member(s) Excused

Chair R. Nils Olsen

Staff Present

Executive Director Jeanette M. Robe
Principal Analyst/Media Liaison Bryce E. Link
Senior Financial Analyst II/Manager of Technology Nathan D. Miller
Administrative Assistant Nikita M. Fortune

Additionally Present

Mr. James L. Magavern, Esq., Magavern Magavern & Grimm LLP
Ms. Mary Scarpine, Director of Labor Relations, City of Buffalo
Mr. William Renaldo, Commissioner of the Fire Department, City of Buffalo
Mr. Kevin Helfer, Commissioner of Parking, City of Buffalo

Opening Remarks

Interim Vice-Chair Jurasek served as Chair Pro Tempore for the Special Meeting of the Board. She welcomed and thanked all that were in attendance, and reviewed the logistics of the meeting and the agenda. The sole and specific purpose of the Special Meeting was to review the proposed labor contract between the City and the Buffalo Professional Firefighters Association, Inc., Local 282, I.A.F.F., AFL-CIO.

Roll Call of the Directors

Secretary Arthur called the roll. A quorum being present, the meeting commenced.

City of Buffalo Commissioner of Administration, Finance, Policy & Urban Affairs, Ms. Donna Estrich, represented Mayor Byron W. Brown in accordance with Subdivision 1 of §3853 of the BFSA Act.

Erie County Budget Analyst, Mr. Mark Cornell, represented County Executive Mark C. Poloncarz, in accordance with Subdivision 1 of §3853 of the BFSA Act.

Subdivision 1 of §3853 of the BFSa Act reads: "...The Mayor and the County Executive shall serve as ex officio members. Every director, who is otherwise an elected official of the City [of Buffalo] or County [of Erie], shall be entitled to designate a single representative to attend, in his or her place, meetings of the Authority and to vote or otherwise act in his or her behalf. Such designees shall be residents of the City of Buffalo. Written notice of such designation shall be furnished prior to any participation by the signal designee...."

City of Buffalo ("City")

*Collective Bargaining Agreement with Buffalo Professional Firefighters Association, Inc.
Local 282, I.A.F.F., AFL-CIO*

Interim Vice-Chair Jurasek stated the City submitted to BFSa, for review, a tentative Memorandum of Agreement ("MOA") between the City and the Buffalo Professional Firefighters Association, Inc., Local 282, I.A.F.F., AFL-CIO ("Local 282"). BFSa Executive Director Jeanette M. Robe and Principal Analyst Bryce E. Link were asked to present the staff's analysis to the Board. Mr. Bryce E. Link thanked the Board for the opportunity to present and stated that the tentative labor agreement was agreed upon between the City and Local 282 in October 2018. He provided the following background information:

- The previous CBA expired on June 30, 2017. The proposed MOA covers an eight-year period, July 1, 2017 through June 30, 2025, which is three years beyond the current financial plan.
- There are 742 budgeted positions with 710 positions filled as of September 30, 2018. The vacancy rate is 4.3%. There are 58 recruits in the fire academy as well as 45 firefighters categorized as long-term Injured on Duty ("IOD"), with both populations included in the fill rate of 710. The firefighters on IOD place additional stress on the remaining staff since they are not available to work in the line companies but are still paid at the standard rate.
- Employees are funded through the General Fund.
- The MOA impacts four appointed exempt employees.
- The MOA and was approved by union membership on October 12, 2018 with a vote of 484 to 41.
- Payments retroactive to July 1, 2018 would be paid for those that retired between July 1, 2018 and date of ratification.
- The new salary schedule would be effective July 1, 2018.

Interim Vice Chair Jurasek asked if the vacancy rate is consistent with previous years. Mr. Link responded it is in line with having a large recruit class. There are approximately 55 employees that are eligible for retirement during the current fiscal year.

Mr. Link continued his presentation regarding pension tiers.

- Tier 2 is the largest pension group of 351 FTE's, or 49% of the filled positions as of September 30, 2018. Tier 2 spans from July 31, 1973 through June 30, 2009 and is the most expensive tier as it does not require employee contributions.

- Tier 6 is the second largest pension tier and includes 284 employees, or 40% of the filled positions as of September 30, 2018. Tier 6 covers the period of April 1, 2012 to the present. Individuals in Tier 6 are required to contribute towards their pension throughout employment.
- Tier 3 and 5 combined total 75 FTE's, or 11% of filled positions. Tier 3 and 5 cover the period from July 1, 2009 to March 31, 2012. There was no Tier 4.

Director Gallagher asked for pension tier breakdown of IOD firefighters. Mr. Link stated he did not have that information readily available but would be able to provide it to the Directors after the meeting.

Mr. Link stated the following with regard to the wage agreement:

- 0% salary increase on July 1, 2017
- 2.0% increase on July 1, 2018
- Annual 4.0% salary increases on July 1, 2019, 2020, 2021 and 2022
- 3.0% salary increase on July 1, 2023 and 2024
- Total increase over eight years is 26.6%
 - The average annual increase \$2,276 per year, per employee
- New 9-step salary schedule, reduced from 13-steps.

Significant contract changes included:

- New 24-hour shift schedule effective January 1, 2019
 - Firefighters work what is called a tour, and a tour is an eight-day period where an employee works 48 hours
 - The current tour schedule is two 9-hour day shifts, followed by two 15-hour night shifts, followed by four days off
 - The new tour schedule consists of one 24-hour shift on, one 24-hour shift off, one 24-hour shift on, followed by five days off
 - Results in the increase of 12 FTE's per scheduled shift
- Changes to paid time off:
 - Vacation Time
 - Maximum number of line duty firefighters that may be scheduled for the use of vacation or compensatory time in any shift is 31
 - During the summer months vacation leave must be used as an entire tour of forty-eight hours
 - Remaining nine-months of the year vacation may be taken in single 24-hour shifts
 - Sick leave is reduced from nine hours a month to eight hours a month which reduces the amount earned per employee per year by twelve hours
 - Sick leave must be taken in 24-hour increments
 - Compensatory time cannot be used during the summer months and must be taken in 24-hour increments
- Changes to Closure of Line Company
 - Management has the authority to close one fire company per shift if five or more employees in one company call in sick
 - During the summer schedule this provision is triggered when shift manpower falls below 124 employees

- During the rest of the year this provision is triggered when shift manpower falls below 117 employees
- Health Insurance Changes
 - Beginning January 1, 2019, employees are required to use generic drugs when available on all new prescriptions. This provision extends to current employees who retire after January 1, 2019.
 - Employees who choose name-brand drug over a generic drug will pay the difference in retail cost and the name-brand co-pay
 - Generic maintenance medication will be dispensed as 90-day supplies via mail
 - Members prescribed medications for which there is no generic equivalent shall receive those medications prescribed and pay only the indicated co-pays
 - Prescription co-pay schedule shall be \$5 for generic, \$20 for name-brand, and \$35 for specialty medication

Director Floss questioned if there was a change in copays between generic and name-brand drugs from the previous contract. Ms. Mary Scarpine, Director of Labor Relations, City of Buffalo, stated the proposed \$15 differential is key to the savings; the previous contract has a differential of approximately \$7. Director Floss stated studies have shown when generic co-pays are \$0 and the name-brands co-pay is \$35 the savings increase.

Director Floss commented it should be considered for future contracts to supply new prescription generic drugs for a five-day trial period before dispensing a full ninety day supply in case the prescription requires modification. The savings could be tremendous.

- Current health insurance for active employees:
 - Current employees receive the Traditional Blue POS 201 plan
 - Employees hired prior to July 1, 2013 contribute 0% towards the health insurance premiums
 - Employees hired after July 1, 2013 contribute 25% for a single plan or 15% for a family plan
 - The premium cost equivalent is \$6,317 for a single plan
 - Employee contribution of \$1,579
 - The premium cost equivalent is \$16,993 for family coverage
 - Employee contribution is \$2,549

Director Floss stated his continued support of reversing the employee contribution rate for single and family coverage noting that the contribution rate disincentivizes employees from selecting two single-person coverages in lieu of a more costly family plan where applicable.

- Active employees who retire after January 1, 2019:
 - Subject to generic prescription drug mandate
 - Contribute at rate required as an active employee
 - Required to enroll in Medicare Part B and make Medicare the primary coverage
 - City shall pay the cost of Medicare Part B coverage
 - City shall pay for senior product

- City is responsible for paying for health insurance between employee's retirement and enrollment in Medicare
- Enhanced Home Confinement Policy:
 - Employees who call in sick or are out on IOD are required to be at their residence during their scheduled shift, except for medical treatment or doctor's visits.
 - The City will conduct home checks on the twelve recognized holidays or once a member calls in on two consecutive shifts.
 - If employee is off four consecutive 24-hour shifts they may be required to provide proof of illness.
 - If an employee is sick for more than eight 24-hour shifts in a year, they may be required to submit to an independent medical exam to verify illness.
 - Penalties assessed according to number of offenses:
 - Hours deducted from accumulated sick leave
 - Disciplinary proceedings may occur after four offenses in 24-month period
- Enhanced Injured-on-Duty Policy
 - Local 282 agrees to actively work with City management to encourage eligible employees to take a service disability pension under New York State General Municipal Law §207-a
 - Savings from moving employees to retirement from active service while on long-term IOD leave:
 - City pays difference between what salary would be if an active employee and the amount of pension received
 - Allows City to bring on Firefighters to line companies to actively work
 - The new policy outlines the steps and timing an employee must complete to be considered before being placed on IOD leave
 - No longer automatic
 - The Commissioner of Fire will review all IOD submissions
 - Members on IOD leave that receive a medical clearance may be assigned to non-line company assignments on light duty or non-manpower light duty
 - Light duty functions include:
 - Loading and unloading of supplies such as air tanks, fire extinguishers, tools, and turn out gear
 - Sweeping, mopping, and watch duty
 - Non-manpower light duties are similar in scope with the limitation being "to the level they are medically capable of"
 - Savings achieved by utilizing employees on light-duty as opposed to calling in other employees on overtime
- Unmodified Key Provisions:
 - Longevity \$210 per year for up to 30 years of service
 - No change in vacation accrual
 - No change in personal leave
 - No change in residency requirement – all employees hired after January 1, 2012 must maintain residency within the City of Buffalo

The MOA covers an eight-year period; one-year prior to the current financial plan, the four years of the financial plan, and three years beyond the financial plan. There are no costs associated with the first year of the agreement with costs retroactive to July 1, 2018 of the current fiscal year. The personnel cost over the 2019-2022 Financial Plan totals \$25.1M whereas total contract savings are estimated at \$15.8M, for a net total estimated cost of \$9.3M over the current financial plan.

Interim Vice-Chair Jurasek requested additional detail on the estimated IOD retirement buyouts of 25 firefighters in the current year which provides the largest savings over the life of the MOA. Ms. Scarpine explained fire personnel are required to serve a minimum of twenty-years of service for service pension eligibility and the likelihood of employees who are on long-term IOD moving to a service-disabled pension is increased as they would no longer be subject to the Enhanced Home Confinement Policy. The number of IOD buyouts is expected to increase over the life of the MOA as more employees on long-term IOD reach twenty-years of service and are eligible for a service disability pension.

Mr. Kevin Helfer, Commissioner of Parking, explained that the City will pay the difference between what the employee will receive from the New York State pension system and what they are currently earning while on IOD. By moving the eligible firefighters to the pension system, it reduces the total cost per employee for the City, as well as reduces the required pension contribution from the City to the New York State (“NYS”) pension system that would be made while the employee was still employed by the City.

The City has submitted a revised 2019-2022 Financial Plan, identifying the resources to cover the increased costs associated with the MOA in the last two-years of the Financial Plan. Total costs in the last two years increase \$9.3 million. The City identified \$5.8 million that had been included in the financial plan for fire department salary increases and \$3.5 million from the salary adjustment line that is provided for future City-wide collective bargaining.

The cost of the three out-years beyond the 2019-2022 Financial Plan rises exponentially as salaries increase by 4% in year 6, 3% in year 7 and 3% in year 8. Total personnel costs will increase by \$77.3M and are offset by estimated savings of \$32.0M for a net estimated cost of \$45.2M over the eight-year proposed contract term. It was noted that as Tier 2 employees retire and new employees enter service at Tier 6, the pension contribution costs will decrease. Currently the pension contribution rates are approximately 24% for Tier 2 and 15% for Tier 6.

Ms. Robe thanked Mr. Link for his presentation and then presented the following recommendations and conclusions:

- Incremental costs of the MOA have been prospectively funded over the 2019-2022 Financial Plan
 - The Financial Plan included estimated wage increases of 2% annually
 - The Financial Plan included additional funding for the settlement of all labor contracts in the salary adjustment line
 - A revised 2019-2022 Financial Plan was submitted
- Costs increase exponentially over the term of the contract
 - Majority of the costs are beyond the current Financial Plan in the last three-years of the proposed MOA

- \$35.9M of the total estimated costs of \$45.2M will be incurred after the current financial plan
- BFSA advises the City to forecast beyond the four-year financial plan to evaluate the impact the increased labor costs will have on future budgets.
- The MOA provides predictability of fire department employee costs through the end of the financial plan June 30, 2022.
- The affordability of the contract relies on the reasonableness of the underlying assumptions in both the 2019-2022 Financial Plan and the projected savings estimated by the City for certain contract provisions.
- The City has included uncertain revenues over the Financial Plan which must be recognized to remain operationally balanced
 - A revenue shortfall would likely result in the City's need to identify new revenue sources or reduce expenditures.
 - Uncertain revenues include fines, service charges, entertainment surcharge fee, gifts and donations, sale of capital assets and New York State aid
 - Fines and services charges have been overestimated in the past two years
 - Entertainment surcharge has not been finalized: the City is currently looking for alternative revenue sources to replace the entertainment surcharge.
 - State aid increases over financial plan of \$9.9M included
 - No increases were included in NYS's financial plan
- Total fund balance at June 30, 2018 is \$92.0M and unassigned fund balance is \$0.
 - Unassigned fund balance is no longer available to be used as a resource to close operating deficits.
 - The City reported a deficit of \$22.9M for year ended June 30, 2018.
 - Similar financial results would cause significant pressure to the City

City of Buffalo

First Quarter Review of the 2018-2019 Budget

Ms. Robe stated the City is projecting to be within budget with the use of \$3.6M of fund balance. The adopted budget estimated revenue of \$509.6M was revised downward by less than 1% to \$505.8M. The adopted budget estimated expenditures of \$513.6M which was revised to \$509.4M. As of September 30, 2018, there were 157 vacancies, or a vacancy rate of 6.0%. Of the 157 vacancies, 25 were attributed to the police department and 32 were attributed to the fire department.

Recommendations and Considerations

- Timing – still early in fiscal year, reflective of only the first three months
- City's unassigned fund balance at July 1, 2018 is \$0
- Overtime for both fire and police departments should continued to be monitored
- Several revenue sources are still a concern and may not be recorded at the budgeted amounts including:
 - The Tribal State Compact revenue of \$17.0M. According to Ms. Donna Estrich Commissioner of Finance, Administration and Urban Affairs, City of Buffalo, the City expects to have an update in early 2019.

- City is not projecting a negative impact to gifts and donations
 - IRS guidance disallows deduction for property tax payments made as charitable contribution
- Entertainment surcharge fee
 - Not expected in current fiscal year
 - City is examining alternative revenue sources
- We recommend the City continue to monitor traffic fines, parking meter collections, and the sale of capital assets
- Unfavorable financial results would further reduce assigned fund balance and in event this is depleted Rainy Day fund would need to be used
 - In this instance the City would need to address the structural deficit in the budget through additional revenues or reductions in expenditures
 - The City would also need to develop a plan to rebuild fund balances to a reasonable level
- The City should modify its budget and financial plan as necessary

Hearing no questions Secretary Arthur made a motion to forward the BFSA recommendations and conclusions on the review of the MOA and the City's first quarter to the Common Council.

Director Floss seconded the motion.

Interim Vice-Chair Jurasek opened the floor for discussion and asked if more vigilance should be placed on the City to report on the 2nd quarter. Secretary Arthur amended his motion that two resolutions be drafted:

1. Advising the Buffalo Common Council of the Board's recommendations and conclusions with respect to the MOA with the firefighters and the first quarter review.
2. Asking the Common Council and Administration for future reports in a timely fashion regarding changes in expenses and revenues.

Director Gallagher seconded the amended motion.

The Board voted 6 to 0 to approve the motion.

The Executive Director will draft the correspondence.

Director Floss thanked the Administration and union for their great work in getting the contract completed with a good faith effort.

Ms. Estrich commented on how well the union and the City negotiating team worked together to develop a good contract.

Public Comment

Interim Vice-Chair Jurasek opened the floor for additional comments to be considered by the Board.

William Renaldo, Commissioner of Fire, City of Buffalo thanked the BFSA and Administration for working on the contract.

Union President Vincent Ventresca thanked the BFSA and Administration for their hard work and consideration.

Adjournment

Interim Vice-Chair Jurasek asked if there were additional comments to be considered by the BFSA. Hearing none, she asked for a motion to adjourn.

Secretary Arthur made a motion to adjourn.

The meeting adjourned by acclamation.

Meeting adjourned at 2:07 P.M.